

## **RHS, RBS, RUS, FSA, USDA**

of the indebtedness. The loan file must be documented to support the maturity granted for the loan.

[52 FR 6501, Mar. 4, 1987, as amended at 56 FR 8271, Feb. 28, 1991]

### **§ 1980.425 Availability of credit from other sources.**

(a) Inability to obtain credit elsewhere is not a requirement for guaranteed assistance under this subpart.

(b) To be eligible for an insured loan under this subpart, the borrower must be unable to obtain the required credit from private or cooperative sources at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near the borrower's location(s) for loans for similar purposes and period of time. The borrower's inability to obtain such credit elsewhere will be determined in accordance with subpart A of part 1942 of this chapter.

### **§ 1980.426–1980.431 [Reserved]**

### **§ 1980.432 Environmental requirements.**

[See subpart A, § 1980.40 and subpart G of part 1940 of this chapter.]

#### *Administrative*

When required by subpart G of part 1940 of this chapter, the approving official will review Form FmHA or its successor agency under Public Law 103-354 1940-20, "Request for Environmental Information," submitted by the borrower and the environmental impact assessment prepared by the environmental reviewer. The approving official will indicate his/her decision as part of the assessment when required. If the approving official determines that an EIS is required, he/she will notify the borrower and lender in writing.

### **§ 1980.433 Flood or mudslide hazard area precautions.**

(See subpart A, § 1980.42.)

#### *Administrative*

The State Director is responsible for determining if a project is located in a special flood or mudslide hazard area. Refer to subpart B of part 1806 of this chapter [FmHA or its successor agency under Public Law 103-354 Instruction 426.2].

## **§ 1980.441**

### **§ 1980.434 Equal opportunity and non-discrimination requirements.**

(See subpart A § 1980.41.)

#### *Administrative*

The State Director will assure that equal opportunity and nondiscrimination requirements are met. If there is indication of non-compliance with these requirements, such facts will be reported by the Compliance Reviewing Officer or FmHA or its successor agency under Public Law 103-354 Official in writing to the Administrator, ATTN: Equal Opportunity Officer.

### **§ 1980.435–1980.440 [Reserved]**

### **§ 1980.441 Borrower equity requirements.**

(a) A minimum of 10 percent tangible balance sheet equity will be required for insured loans at loan closing or at the time the Loan Note Guarantee is issued for guaranteed loans. However, balance sheet equity in the amount of at least 20-25 percent will be required under the following circumstances:

(1) For new businesses since they do not have a history of proven operations and such businesses generally experience unforeseen startup expenses which may deplete the available cash resources.

(2) For businesses where the borrower does not or cannot offer a limited or full personal or corporate guarantee as required in § 1980.443 and thereby weakens the financial soundness of the loan.

(3) For energy related businesses since these types of projects may be technically feasible, but in many instances are more susceptible to higher risk. A higher equity position will assure management's commitment to the project.

(b) FmHA or its successor agency under Public Law 103-354 may also require more than a 10 percent equity investment in projects other than those in paragraphs (a)(1), (2) and (3) of this section if the reviewing official makes a written determination that special circumstances necessitate this course of action. Special circumstances are limited to credit factors which negatively affect the financial soundness of the loan, the chances of the project's success or the repayment ability of the borrower. Such determination will be in writing by the reviewing official and